IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ RFA No.332/2002 & CM No.12592/2007

% Date of Decision: 19th September, 2007

\# ATTAR SINGH & ORS. ..... Appellant
! Through: Mr.I.S. Dahiya, Advocate.

versus

$ UNION OF INDIA & ANR. ..... Respondent
^ Through: Mr.Sanjay Poddar, Advocate
for respondent No.1.

CORAM:
* **HON'BLE MR.JUSTICE T.S.THAKUR**
* **HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

T.S.THAKUR, J. (ORAL)

Admit. Mr.Sanjay Poddar accepts notice for the respondent. The appeal has been heard for final disposal.

2. Land measuring 43 bighas and 11 biswas situated in village Zindpur was acquired for widening of G.T. Karnal Road from Auchandi Border Marg to Haryana Border in terms of a notification under Section 4 issued on 9.1.1980

followed by a declaration under Section 6 of the Act. An award made by the Land Acquisition Collector on 15.7.80 determined the compensation payable to the expropriated land owners at the rate of Rs.1600/- per bigha. Dissatisfied with the said amount, the appellants/land owners sought a reference to the civil court who by the order under challenge in this appeal has enhanced the amount of compensation to Rs.11,384 per bigha with proportionate statutory benefits. A reading of the order passed by the reference court shows that the enhancement in question has been granted on the basis of an earlier order passed by the said court in LAC No.245/1981 relating to a certain parcel of land acquired in the adjoining village of Alipur. RFA No.604/1987 filed against the order passed in the said case succeeded in part resulting in the enhancement of the compensation payable to the owners to Rs.15,380/- per bigha. Learned counsel for the appellants, therefore, argued and, in our opinion, rightly so that the amount of compensation determined by this Court in RFA No.604/1987 arising out of the case relied upon by the reference court shall have to be awarded to the appellants

also.

3. Mr.Poddar, counsel appearing for the respondent, however, submitted that while the amount determined by this court in RFA No.604/1987 could on a parity of reasoning be awarded to the appellants and the order passed by the reference court modified to that extent, yet the appellants would not be entitled to the benefit of the additional compensation in terms of Section 23(1A) of the Act. Relying upon the decision of the Supreme Court in *K.S. Paripoornan vs. State of Kerala & Ors.* AIR 1995 SC 1012, Mr.Poddar submitted that since the award in the present case was made much before 30.4.1982, the date relevant for purposes of grant of benefit of additional amount under Section 23(1A), the said benefit is not admissible to the appellants. This position was not disputed by counsel for the appellants who submitted that the law regarding the admissibility of the additional amount on compensation under Section 23(1A) of the Act having been authoritatively settled by the Supreme court in Paripoornan's case, the additional amount under the said provision would not be admissible to the appellants in the

instant case.

4. In the circumstances, therefore, and keeping in view the submissions made at the Bar, we allow this appeal and modify the order passed by the reference court and hold the appellants entitled to the compensation @ Rs.15,380/- per bigha with proportionate statutory benefits including solatium and interest but excluding additional compensation admissible under Section 23(1A) of the Act. The appellant shall also be entitled to proportionate costs in this appeal.

T.S.THAKUR, J

VEENA BIRBAL, J

SEPTEMBER 19, 2007
srb